

## **REMARKS/ARGUMENTS**

Applicant responds herein to the Office Action dated September 29, 2009. A Petition for Extension of Time (one month) and the fee therefor are submitted herewith.

Claims 1-22 are in the application, with claim 22 being newly added.

The Examiner objected to claim 12 because of lack of antecedent for the term “the given frequencies”. However, claim 12 is dependent on claim 11 which does in fact provide antecedent basis for the term “the given frequencies”, in the last line thereof. Withdrawal of the objection is in order and is respectfully requested.

Claims 1-21 were rejected under 35 USC §101 as being directed to non-statutory subject matter. The Examiner considered the claims as not being directed to a machine or transformation (presumably in line with the recent *In re Bilsky* decision of the CAFC).

In response thereto it is submitted that independent claim 1, in fact, specifically relates to a machine and the predictive maintenance thereof for correction of defects in an operating component of an automatic machine. In addition, with the above amendment to independent claim 1, there is also a transformation in which programmed maintenance is used to actually correct the defect. It is further submitted that claims 11-21 are specifically directed to the predictive maintenance of bearings and other machine elements (claims 11-18) and fans (claims 19-21). A machine need not be specifically limited to computers, for effecting programs, in accordance with the *Bilsky* decision. Any process in which a machine is involved fits within the criteria set forth by the CAFC. Furthermore, as described, the independent claims 1 and 22 include the physical transformation step of providing the programmed maintenance to the machine by correcting the defect in the operating component based on the predictive maintenance from which maintenance is programmed. The claims are accordingly all statutory.

Claims 1, 2, 4, 11, 12, 19 and 21 were rejected under 35 USC §102(b) as being anticipated by Hays (6,330,525).

No prior art has been cited against claims 3, 5-10, 13-18 and 20. With the claims being statutory, these claims are perforce allowable.

In response to the rejection of claims 1, 2, 4, 11, 12, 19 and 21, it is submitted that these claims contain limitations clearly not present in the cited Hays reference. Independent claim 1 contains the limitations of using an extrapolation of time pattern values in arriving at the predictive maintenance and the programming maintenance of correction of defects:


“...programming maintenance to correct said defect, as a function of the combination of the comparison between the first value (V) and the given reference data with the comparison between the second value (V) and the given reference data; and/or programming maintenance to correct said defect, as a function of the comparison between the given reference data and the combination of said first and second value (V); an **extrapolation of the time pattern of the combination of the first and second value being** carried and compared with the given reference data...”

The Hays reference, discloses an actual evaluation of deviation of a performance variable indicative of failure. The reference does not disclose a predictive defect arrived at by any extrapolation of values, as presently claimed. The Hays reference thus neither discloses nor suggests the present claims.

Accordingly, the Examiner is respectfully requested to reconsider the application, allow the claims as amended and pass this case to issue.

Respectfully submitted,

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